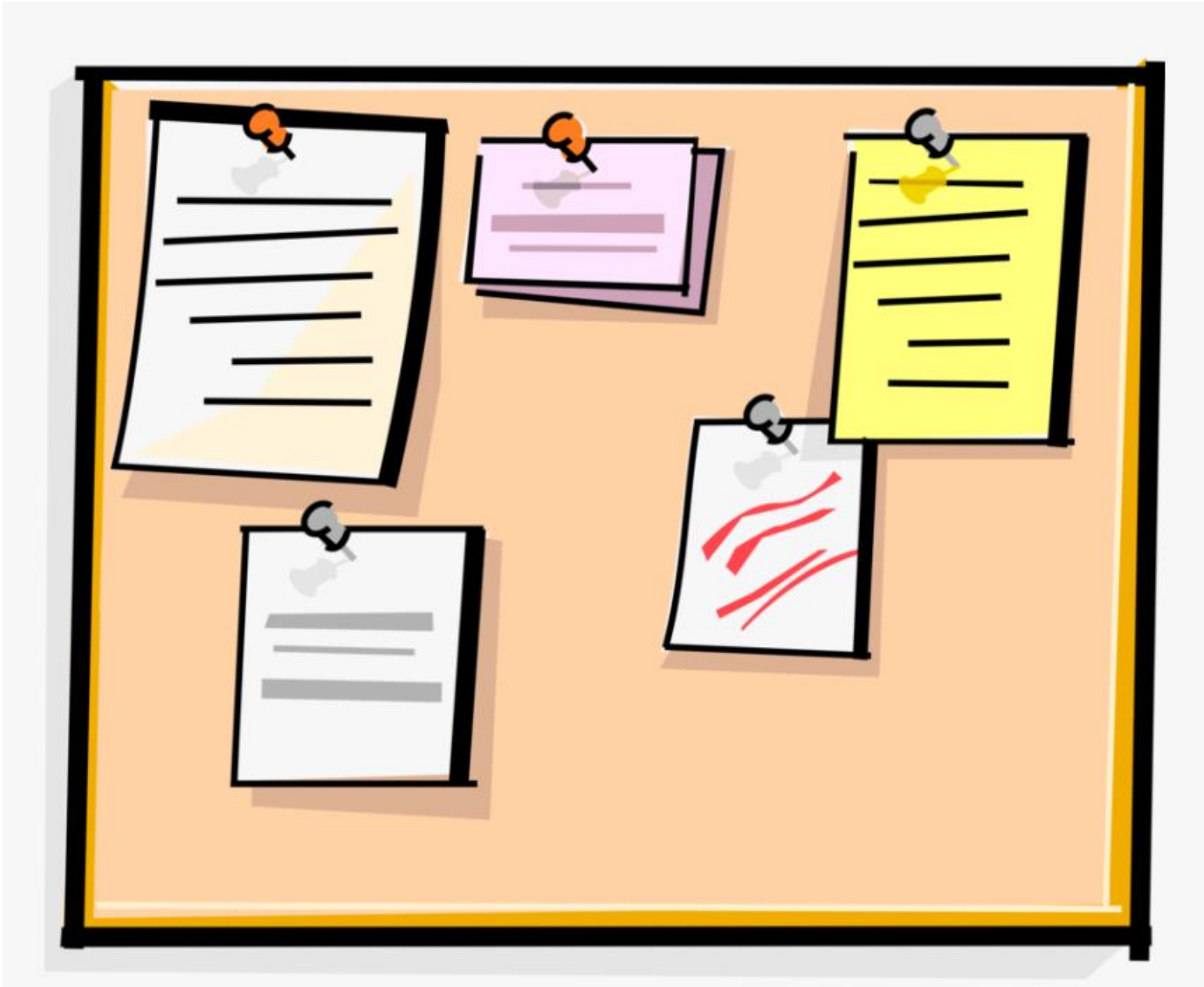


CURRENT AWARENESS BULLETIN

April- June 2019



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INTRODUCTION

This publication is designed to inform users of acquisitions by the library within the stated period, and will appear quarterly until further notice.

Under **TREATISES, DIGESTS, ETC.**, the classification number for the location of the publication on the shelves, is included to the right of the listing.

Under **LEGISLATION**, the abbreviation “G.S.” means - Jamaica Gazette Supplement Bills and Acts.

Judgments are arranged by country, then listed alphabetically by names of parties, followed by the court and date of decision. Abbreviations for the courts are as follows:

P.C. Privy Council
C.A. Court of Appeal
S.C. Supreme Court
R.C. Revenue Court
F.C. Full Court

Jamaican judgments have been broadly classified to facilitate the user. **Headings** are indicated in bold letters appearing after the date of decision for each judgment.

Publications of other Caribbean territories are included as and when received.

Comments: As we begin to adapt to the new normal, John Gould asks whether it's time to adopt a new approach to ethics

Specialist: Employment Ian Smith takes a gender at short, precise, but nonetheless important aspects of both common & statutory

Procedure and Practice: Standard of Proof **Adrian Keane** considers jurors should be given a fuller & more accurate direction before returning their verdict.

Inside Court: Law Digest

Profession: Expert Witness- Expert witnesses at a conference with counsel- a practical guide- compiled by Mark Solon.

conversion in the digital age

April – June 2019

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A1 Limited v Mary Grace Abrahams

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APPLICATION FOR STAY OF EXECUTION PENDING APPEAL – Application for removal of caveat – Application to strike out claim – Whether issue estoppel or res judicata – Judge reached age of retirement prior to delivery of judgment – Whether real prospect of success on appeal – Stare decisis – Whether Supreme Court bound by decision of court of appeal – Whether real risk of injustice if stay refused

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PROPERTY RIGHTS OF SPOUSES ACT- Facilities for Title Act-Constitutional Law.

ALLIANCE Finance Limited v Capital Solutions Limited and mark Anderson Jones

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CIVIL PRACTICE AND PROCEDURE – Application for summary judgment – Debt owed by one party to another – Attempt by debtor to assign debt – Assignment ineffective – Declaration of trust – Trustee refusing to bring claim against his debtors – Beneficiary of the trust bringing claim against third party debtor – Whether there exists any basis for summary judgment – Civil Procedure Rules 2002, Part 15, Rule 15.2

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ASSOCIATED GOSPEL Assemblies (By Power of Attorney from Jeremy Karram, Executor for estate of Albert Teimer Karram dec'd) and Registrar

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APPLICATION FOR EX PARTE INJUNCTIVE RELIEF – Whether hearing held ex parte or inter parties – Property dispute – Registered title – Circumstances in which injunctive relief granted on inter parties hearing may be discharged – Effect of sections 68, 70, 71 and 162 of Registration of Titles Act – Indefeasibility of title

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BARDI LIMITED v McDonald Millingen

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(Considered on paper pursuant to rule 2.4(3) of the Court of Appeal Rules 2002)

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BERNARD, Denver v R

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CRIMINAL LAW-Gun Court-Two-count Indictment-Illegal Possession of Firearms-Illegal Possession of Ammunition

BLAGROVE, Margaret v Superclubs International Limited

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CIVIL PRACTICE AND PROCEDURE – Substitution of parties – Rule 19.4 of the Civil Procedure Rules 2001 – Significance of relevant limitation period in the context of Rule 19.4 and the Limitation Act – Service out of the jurisdiction – Rules 7.3 and 7.5 of the Civil Procedure Rules 2002 considered – Without prejudice communication – Legal principles governing without prejudice communication

BLAKE, Gertrude (Administrator of the estate of Cleopatra Gray) and Gertrude Blake v Miljava Health Complex Ltd and Dr. Sukanya Prasad

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CIVIL PRACTICE AND PROCEDURE – Application to appoint expert – Whether an expert’s report can refer in detail to the content of a medical report which the defendant has objected to – Civil Procedure Rules 2002 Part 32

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CIVIL PRACTICE AND PROCEDURE – Summary judgment – Whether contract arrived at by the parties – Breach of employment contract – Trespass – Detinue – Conversion – Factual disputes – Whether summary judgment appropriate in the circumstances – Part 15, Civil Procedure Rules, 2002

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ASSESSMENT OF DAMAGES – Special damages – Whether loss of earning – Loss of future earnings should be strictly proven – Loss of earning capacity – Whether multiplicand/multiplier approach is appropriate – pain and suffering and loss of amenities

BROWN, Cary v Board of Directors of Jamaica Anti-Doping Commission (JADCO)
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BROWN, Neale v Global Leasing and Finance Company Limited
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CABLE & WIRELESS Jamaica Limited v Eric Jason Abrahams
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COMPANY LAW – Section 206 of the Companies Act – Scheme of arrangement – Duty of court – Whether the Scheme of Arrangement is fair – Whether meeting to consider scheme properly constituted – Whether class or interest of shareholders relevant – Whether application to bring derivative action – Whether court should sanction the Scheme of Arrangement – Whether application to approve scheme should be stayed until after application for permission to bring derivative action is heard – Whether attorney who filed affidavit should appear as counsel

CAMERON, Karen v Andrew Ray Thomas
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EVIDENCE- Whether matrimonial home to be regarded as family home – Section 2 of The Property (Rights of Spouses) Act – Can Section 14 of Act be used to confer share of property to a spouse if property is not family home

CAMPBELL, Peter v R

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CAUSWELL v The General Legal Council (ex parte Elizabeth Hartley) (Jamaica)

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CHUNG, Gloria and Amanda Chung and Mark Chung v Michael Chung and Mikol Investments Limited

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CLARKE-LEMMON, Veronica (sue as near relative and next of kin of Neville Lemmon, deceased, intestate) and Marcia Battis (sue as mother and next friend of Jaydon Barbika Lemmon, a minor, and near relative and next of kin of Neville Lemmon deceased, intestate) and Rochelle Lemmon v The Attorney General of Jamaica

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<THE> COMMISSIONER OF THE INDEPENDENT Commission of Investigations v The Police Federation and Merrick Watson (Chairman of the Police Officers Association) and The Special Constabulary Force Association and Delroy Davis (President of the United District Constables Association) and The Attorney General of Jamaica (Interested Party)

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THE PARTIES' INTEREST IN THE FAMILY HOME – Principal asset – Statutory rule creates an entitlement to equal interest – Equal share rule is the norm but may be displaced – For the rule to be displaced, it has to be shown to be unreasonable or unjust – What constitutes a section 7 factor – No requirement that inheritance factor occurs before the marriage – Once a section 7 factor exists then court can consider all other circumstances including contribution – Inheritance money used to repay mortgage – Post separation contributions do not affect entitlement at separation – Occupation rent – Payment of interest equivalent to payment of occupational rent – Rental income – Other property – Different considerations – Motor vehicle – Factors that support and rebut a presumption of gift

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MILLER, Wynette and Winston Cameron and Marcia Tai Chun and Radley Ritch and Kingsley Jarrett and Hopeton McClatty v UC Rusal Alumina Jamaica Limited and Timothy O'Driscoll and Andrew Shmalenko and Igor Dorofeev and The Manchester Pension Trust Fund Limited and The Financial Services Commission
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CRIMINAL LAW-Illegal Possession of Firearm-Wounding with Intent

MORRISON, MARJORIE and Marjorie Morrison (Legal Guardian of James Morrison) and Sjuan Morrison (Mother and next friend of Zoe Morrison) and Sjuan Morrison (Mother and next friend of Zara Morrison v Lourice Morrison (Executor of the Estate of Harold Eustace Melville Morrison, deceased) and Harold Morrison and Robert Woodstock Associates Limited
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PITT, Ashton Evelyn v The Attorney General of Jamaica and The Westmoreland Municipal Corporation and The Natural Resources Conservation Authority and The Town and Country Planning Authority and Hubert Williams and Andrew Williams
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33/2018	Banks and Trust Companies Regulation (Amendment) Act
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32/2018	Commercial Entities (Substance Requirements) Act
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5/2018 Nevis Appropriation (2019) Ordinance
6/2018 Nevis Business Corporation (Amendment) Ordinance
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15/2018 Trusts (Amendment) Act

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President's Message

The ABA offers lawyers opportunities to get involved with government at ABA Day and Law Day
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Opening statements

A criminal justice system in an Atlanta suburb is led almost entirely by African-American women
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Do bans on cellphones in courtrooms impede access to justice? *Kate Silver*

10 Questions: After her estranged husband almost killed her, an Atlanta prosecutor uses her experience to advocate for domestic violence victims *Jenny B. Davis*

My PATH TO LAW: Attorney Charla Claypool, who was born to a single mother who died shortly after her birth, relied on a work ethic instilled by her grandmother *Charla Claypool*

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MEMBERS WHO INSPIRE: Margaret Cassidy founded a group to connect and boost women lawyers *Margaret Cassidy*

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Error and exaggeration in the presentation of the significance of a DNA match in criminal trials in Malaysia

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Indirect amendment': how the federal department of justice unilaterally alters the text of the constitution of Canada

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CARICOM, the CSME, and absolute sovereignty: lessons learnt on the road towards regional integration

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From a model of peace to a model of conflict: The effect of architectural modernization on the Syrian urban and social make-up

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Protecting cultural property in Syria: New opportunities for States to enhance compliance with international law

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"Safe areas": The international legal framework

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Comment

As the 70th anniversary of legal aid approaches, *Steve Hynes* outlines a few birthday wishes

Employment: *Ian Smith* ventures outside the mainstream in this month's employment law brief

Public: *Nicholas Dobson* recommends a solid system of warning signals to ensure proper public sector corporate governance

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The duties of a Court of Protection-appointed deputy are not to be taken lightly, warn *Ann Stanyer & Jemma Goddard*

Disclosure: How can a UK investigator compel the disclosure of electronic data stored overseas? *Andrew Smith* discusses a speedy new solution

Crime: Part 2 of *David Wolchover & Anthony Heaton-Armstrong's* examination of the backlash to proposals to keep officers apart after violent incidents

New Law Journal **Vol. 169 No. 7831** **March 8, 2019**

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That bereaved families have so little hope of obtaining legal aid for inquests shows that the UK's system is broken, says *Jonathan Wheeler*

Employment: *Ian Smith* takes a look at some exceptions to the rule in unfair dismissal cases

Crime: *Aziz Rahman* considers the possibilities of an increase in the use of unexplained wealth orders

Property: Freeholders & medieval robber barons: a fair comparison? *Rawdon Crozier* investigates the Housing Act

Property: Is there a duty to disclose the gruesome history of a house on the sale of a property? *Mark Pawlowski* examines the facts

New Law Journal **Vol. 169 No. 7832** **March 15, 2019**

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Jon Robins reports from a small oasis in what is otherwise a legal advice desert

Family: *David Burrows* shares a master class in family law & administration law

Personal injury: *Vijay Ganooathy* reports on the importance of procedure and practice

Insurance: *Nicholas Bevan* reviews the Supreme Court ruling in *Cameron v Liverpool Victoria Insurance Co. Ltd.*

New Law Journal **Vol. 169 No. 7833** **March 22, 2019**

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Lord Saville reports back following scrutiny of the Bribery Act 2010

Employment: What are the limits of religious discrimination? *Charles Pigott* examines a recent case

Personal injury: Where next for the new discount rate? *Julian Chamberlayne* provides an update

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Wills & probate: The longer the delay, the more compelling the grounds: *Scott Taylor* examines whether limitation is back on track

Wills & probate: How does testamentary freedom fit into recent decisions post-*Ilott*? *Constance McDonnell QC* explains

Charity/ Trustees: *Bethan Walsh* reviews the changes to the automatic disqualification rules for trustees

Immigration: *Ruth Mullen* reports on the plight of migrant women who suffer domestic violence

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Life in the fast track: *Dominic Regan* reports on the next steps for fixed costs

Employment: *Ian Smith* proves that two's company, three or more's a crowd

Property: Could the Housing Act Trap render escalating ground rent a derogation from grant? *Rawdon Crozier* proposes a way out of the dungeon

Crime: *David Wolchover & Anthony Heaton-Armstrong* conclude their series on the Home Office's revised rules casting police as criminals

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Employment: When is a transfer not a TUPE transfer? *Dr. John McMullen* explains

Family? Expert witness *Rakesh Kapila* investigates the changing role of the forensic accountability in matrimonial disputes

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Criminal Cases Review Commission: partly excellent, partly abysmal? *Jon Robins* shares some conclusions

Cyber litigation: What does the future of cyber litigation hold? *Dean Armstrong QC* shares his predictions for the years ahead

Bribery: Taking bribery prevention to the next level: *Eoin O'Shea* reflects on the House of Lords' review

Court of protection: *Dr. Laura Davidson* examines mental capacity & consent in the age of the internet & social media

Landlord & tenant: Would Brexit frustrate a lease granted to the European Medicines Agency? *Sally Anne Blackmore* considers *Canary Wharf v the EMA*

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Julian Acratopulo reports back from London International Disputes Week, where the capital continues to hold its own

Employment: *Ian Smith* outlines the toughness of washing off reputational harm

Family: *David Burrows* shares his reflections on divorce reform & outdated marriage laws

Property: Focus on forfeiture: a long-established answer to modern issues? *Catherine Taskis & Anthony Tanney* report

Public: Trust me, I'm a company director: *Nicholas Dobson* reports on breaches of fiduciary duty

Media: Social media & the internet have thrown libel claims into a whole new light, says *Athelstane Aamodt*